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EVIDENCE ACT 1906

EVIDENCE (FEES, ALLOWANCES AND EXPENSES) REGULATIONS 2008

Western Australia

Evidence (Fees, Allowances and Expenses) Regulations 2008

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Evidence Act 1906

Evidence (Fees, Allowances and Expenses) Regulations 2008

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Evidence (Fees, Allowances and Expenses) Regulations 2008*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Acts Amendment (Justice) Act 2008* Part 11 comes into operation.

3. Term used in these regulations

In these regulations —

expert witness means a person who does eligible service called to give opinion evidence because of his or her special skill, technical knowledge or professional qualifications.

Evidence (Fees, Allowances and Expenses) Regulations 2008**Part 2** Fees, allowances and expenses**r. 4****Part 2 — Fees, allowances and expenses****4. Fees for doing eligible service**

- (1) Subject to these regulations, for the purposes of section 119(6), (7) and (8) of the Act, the sums set out in the Table to this subregulation are prescribed as a fee in respect of doing eligible service.

Table of fees for doing eligible service

| | \$ |
|----------------------|-------|
| For a half-day | 10.00 |
| For a full day | 15.00 |

- (2) If the liable person is satisfied that a person who does eligible service, other than an expert witness or interpreter, has by reason of doing eligible service lost income in an amount greater than the fee prescribed under subregulation (1), the liable person may pay the person a fee that equals that loss.

5. Expert witness

- (1) An expert witness is entitled to claim fees in relation to doing eligible service and expenses incurred in the course of or for the purpose of doing eligible service.
- (2) The liable person is to pay claims under subregulation (1) to the extent that they are, in the person's opinion, reasonable and justifiable in each particular case.

6. Interpreter

- (1) A person who does eligible service as an interpreter is entitled to claim fees in relation to doing eligible service and expenses incurred in the course of or for the purpose of doing eligible service.

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- (2) The liable person is to pay claims under subregulation (1) to the extent that they are, in the person's opinion, reasonable and justifiable in each particular case.

7. Travel allowance or expenses

- (1) For the purposes of section 119(4) of the Act, the fee paid by a person who does eligible service for travelling on a public conveyance in the course of or for the purpose of doing that service is prescribed as an expense.
- (2) For the purposes of section 119(4) of the Act, when a public conveyance is not available for travel in the course of or for the purpose of doing eligible service by a person doing eligible service, the prescribed allowance for road travel by the person in the course of or for the purpose of doing eligible service is 37.5 cents per kilometre.

8. Air fares

- (1) Subject to subregulation (3), if it is necessary for a person who does eligible service to travel by air in the course of or for the purpose of doing that service, prior approval for that travel must be obtained from the liable person.
- (2) If prior approval for the payment of air travel has been obtained the cost of the air fare is a prescribed expense.
- (3) If the liable person is satisfied that it was not practicable to obtain prior approval for air travel, the liable person may pay the air fares incurred by a person who does eligible service.

9. Meal expenses

- (1) If a person who does eligible service is required to travel a distance exceeding 40 kilometres from his or her place of residence in the course of or for the purpose of doing that service (but is not required to stay overnight), the person is entitled to be paid the allowances for meals set out in the Table to this subregulation in respect of the meals that are normally

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taken during the time of that service and the cost of which has been paid for by the person.

Table of meal allowances

| | \$ |
|-----------------|-------|
| Breakfast | 10.00 |
| Lunch | 10.00 |
| Dinner | 20.00 |

- (2) If a person who does eligible service is required to remain away from his or her residence overnight, he or she is entitled be paid such actual costs for meals as, in the opinion of the liable person, are reasonable having regard to the circumstances of the particular case.

10. Accommodation expenses

If an eligible person is required to remain away from his or her residence overnight in the course of or for the purpose of doing eligible service, the person is entitled to be paid only the costs for accommodation at a hotel, motel or other place as in the opinion of the liable person are reasonable having regard to the circumstances of the particular case.

11. Prescribed class of employer

For the purposes of section 119(6) of the Act, the following are prescribed as a class of employer —

- (a) a Government department;
- (b) a State instrumentality;
- (c) a State trading concern.

12. Reimbursement of employer

- (1) If the employer under a contract of service of a person who does eligible service (an *eligible person*) applies to the liable person under section 119(6) of the Act, the liable person is to pay to the

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employer any fee otherwise payable to the eligible person under these regulations for the eligible person's service.

- (2) An application under subregulation (1), verified by a statutory declaration, must provide the following information in support of the claim —
- (a) the employer's Australian Business Number;
 - (b) the earnings paid by the employer to the eligible person for any period that the eligible person did eligible service;
 - (c) the name of the eligible person;
 - (d) the eligible person's occupation with the employer;
 - (e) the hourly rate paid by the employer to the eligible person;
 - (f) the number of hours of service of the eligible person lost by the employer as a result of the eligible person doing eligible service.

13. *Evidence (Witnesses' and Interpreters' Fees and Expenses) Regulations 1976 repealed*

The *Evidence (Witnesses' and Interpreters' Fees and Expenses) Regulations 1976* are repealed.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.